

Nuclear Regulatory Commission

§ 51.104

the Commissioners acting as a collegial body, the initial decision of the presiding officer or the final decision of the Atomic Safety and Licensing Appeal Board or the final decision of the Commissioners acting as a collegial body will constitute the record of decision. An initial or final decision constituting the record of decision will be distributed as provided in § 51.93.

§ 51.103 Record of decision—general.

(a) The record of decision required by § 51.102 shall be clearly identified and shall:

- (1) State the decision.
- (2) Identify all alternatives considered by the Commission in reaching the decision, state that these alternatives were included in the range of alternatives discussed in the environmental impact statement, and specify the alternative or alternatives which were considered to be environmentally preferable.
- (3) Discuss preferences among alternatives based on relevant factors, including economic and technical considerations where appropriate, the NRC's statutory mission, and any essential considerations of national policy, which were balanced by the Commission in making the decision and state how these considerations entered into the decision.
- (4) State whether the Commission has taken all practicable measures within its jurisdiction to avoid or minimize environmental harm from the alternative selected, and if not, to explain why those measures were not adopted. Summarize any license conditions and monitoring programs adopted in connection with mitigation measures.
- (5) In making a final decision on a license renewal action pursuant to part 54 of this chapter, the Commission shall determine whether or not the adverse environmental impacts of license renewal are so great that preserving the option of license renewal for energy planning decisionmakers would be unreasonable.

(b) The record of decision may be integrated into any other record prepared by the Commission in connection with the action.

(c) The record of decision may incorporate by reference material contained in a final environmental impact statement.

[49 FR 9381, Mar. 12, 1984, as amended at 61 FR 28490, June 5, 1996; 61 FR 66546, Dec. 18, 1996; 61 FR 68543, Dec. 30, 1996]

§ 51.104 NRC proceeding using public hearings; consideration of environmental impact statement.

(a)(1) In any proceeding in which (i) a hearing is held on the proposed action, (ii) a final environmental impact statement has been prepared in connection with the proposed action, and (iii) matters within the scope of NEPA and this subpart are in issue, the NRC staff may not offer the final environmental impact statement in evidence or present the position of the NRC staff on matters within the scope of NEPA and this subpart until the final environmental impact statement is filed with the Environmental Protection Agency, furnished to commenting agencies and made available to the public.

(2) Any party to the proceeding may take a position and offer evidence on the aspects of the proposed action within the scope of NEPA and this subpart in accordance with the provisions of part 2 of this chapter applicable to that proceeding or in accordance with the terms of the notice of hearing.

(3) In the proceeding the presiding officer will decide those matters in controversy among the parties within the scope of NEPA and this subpart.

(b) In any proceeding in which a hearing is held where the NRC staff has determined that no environmental impact statement need be prepared for the proposed action, unless the Commission orders otherwise, any party to the proceeding may take a position and offer evidence on the aspects of the proposed action within the scope of NEPA and this subpart in accordance with the provisions of part 2 of this chapter applicable to that proceeding or in accordance with the terms of the notice of hearing. In the proceeding, the presiding officer will decide any such matters in controversy among the parties.